

Editor's note: appealed -- dismissed, sub nom. Eileen Grooms v. Watt, Civ.No. 82-2179 (D.Colo. July 13, 1983)

HERCULES (A PARTNERSHIP)
and
GEMINI (A PARTNERSHIP)

IBLA 82-990

82-991 Decided September 20, 1982

Consolidated appeals from separate decisions of the Colorado State Office of the Bureau of Land Management rejecting oil and gas lease applications C-35547 and C-35229.

Reversed.

1. Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases: Applications: Drawings

It is improper to reject a simultaneously filed oil and gas lease application because of the alleged failure of the signatory to indicate his relationship to the applicant where the applicant is a partnership and the signatory is a partner authorized to act in its behalf, and the application is correctly noted with a reference to the BLM serial number where the articles of partnership and the names of those authorized to act are on file. In those circumstances, the regulatory requirement that the application be rendered in a manner to reveal the name of the applicant, the name of the signatory, and their relationship, is satisfied.

APPEARANCES: Kenneth L. Salazar, Esq., Denver, Colorado, for each appellant.

OPINION BY ADMINISTRATIVE JUDGE STUEBING

Hercules and Gemini are each partnerships comprised of different individual general partners. The purpose of each, as declared in their respective partnership agreements, is to engage in the business of acquiring and developing oil and gas leases through participation in the simultaneous filing procedure conducted by the Bureau of Land Management (BLM) incident to

its oil and gas leasing program. Each partnership submitted to the Wyoming State Office, BLM, its respective articles of partnership, a list of all general partners, specifically stating that each of the general partners is authorized to act individually on behalf of his/her partnership, and all of the other information required by 43 CFR 3102.2-4 in order to qualify the partnerships to apply for federal oil and gas leases.

By a letter dated November 16, 1981, addressed jointly to Hercules and Gemini, the Wyoming State Office advised that their qualifications had been examined and found to be acceptable, and had been filed under reference number W-56800.

In March 1982 Hercules filed its simultaneous application in the Colorado State Office, BLM, for Parcel No. C0-299. The face of the application card listed "Hercules" as the applicant in the appropriate space. The back of the application was completed to show that statements of qualification had previously been filed under W-56800, and the application was signed by Anthoney M. Brongo. The signatory, Brongo, was not otherwise identified on the card, but the information on file in W-56800 identifies him as a general partner of Hercules who is individually authorized to act for that partnership. The application was subsequently drawn number one and given serial number C-35547.

In January 1982 Gemini filed a simultaneous application in the Colorado State Office to lease Parcel No. 137. That application was completed in the same manner, showing "Gemini" as the applicant, and referring to its statement of qualifications on file under W-56800. That application was signed by Donald J. Flynn, who is not otherwise identified on the application form, but who is identified in the qualifications filed under W-56800 as a general partner of Gemini who is individually authorized to act for that partnership. That application also was drawn with first priority, and was assigned serial number C-35229.

By separate decisions, both dated May 28, 1982, the respective applications of Hercules and Gemini were rejected by the Colorado State Office on the ground that "No indication of the relationship between [the signatory] and Hercules [or Gemini] appears on the application." The decisions held that this violated 43 CFR 3112.2-1(b) which provides, in part: "Applications signed by anyone other than the applicant shall be rendered in a manner to reveal the name of the applicant, the name of the signatory, and their relationship." The decisions also stated, "The word 'Hercules' ['Gemini'] connotes some entity other than an individual."

In identical statements of reasons for appeal, Hercules and Gemini point out, quite correctly, that the regulation states that it is the application--not the signature--which "must be rendered in a manner to reveal the name of the applicant, the name of the signatory, and their relationship." This requirement, they assert, was satisfied by completing the application with the appropriate reference to the qualifications filed under W-56800 where all of the requisite information is of record with BLM.

We agree. It is apparent that the BLM employees concerned either overlooked or ignored the references to appellants' qualifications file. We are of the opinion that by completing their applications with a reference to that file, the respective applications clearly were "rendered in a manner" to provide the necessary information. See 43 CFR 3102.3-1. Cf. Norcross Partners, 31 IBLA 181 (1977).

Having so found, we need not address appellants' other arguments relating to equitable estoppel and regulatory ambiguity.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decisions appealed from are reversed.

Edward W. Stuebing
Administrative Judge

We concur:

Douglas E. Henriques
Administrative Judge

James L. Burski
Administrative Judge

